

February 5, 2015  
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Housing Committee Public Hearing Thursday, Feb. 5, 2015 from 5 to 6 p.m. at the Board of Alders Chambers in New Haven, 165 Church Street (2nd floor).

Dear Chairmen Butler and Holder- Winfield as well as the rest of the Housing Committee.

For the record my name is Ralph M. Piselli, I live at 1093 West River St. in Milford Connecticut. As the former chairman of Milford's Planning and Zoning Board, and as a resident, I have observed and witnessed the negative impact of the law known as "The Connecticut Affordable Appeals Act 8-30g." I would like to share several facts, my experience, opinion and thoughts as how to bring about change though finding solutions.

I would like to thank State Representative Kim Rose and the committee for holding this public hearing here in New Haven to address the affordable housing statute. I think Representative Kim Rose has been an effective leader in moving this issue forward.

*The Connecticut Affordable Appeals Act 8-30g* is a result of The Blue Ribbon Commission appointed by Governor Bill O'Neill in 1989 on affordable housing. The Blue Ribbon Commission was co chaired by Terry J. Tondro was a professor at the University of Connecticut School of Law who has since passed away in 2012 and Anita Baxter, who was the First Selectwomen of New Hartford, CT.

In conducting my research, I came across an article written in 2001 by Terry J. Tondro in the Western New England Law Review entitled Connecticut's Affordable Housing Appeals Statue: After Ten Years of Hope, Why Only Middling Results? (Dated January 1<sup>st</sup>, 2001).

For those who are not familiar with the article, I will be citing a portion of it because I believe you will find it interesting in particular to the intent of the law and the unintended consequences as a result.

Mr. Tondro writes, "The Blue Ribbon Commission was established in response to the increasing cost of housing in Connecticut." Their concerns were as follows:

1. "The problem of homelessness."
2. "Number of people that had access to a home on two levels; for those were paying an excessive portion of their income for that access and for a slightly higher level economic level, there was concern that a continuing housing cost crisis would adversely affect the economy in Fairfield County, The concerns were that large corporations would not be able to lure executives to their headquarters."3. "Children in one of these towns could not afford to live there after they left their parents home. "<sup>1</sup>

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<sup>1</sup> Page 116 paragraph 2

“The legislation proposed by the commission was premised on the idea that zoning regulation of affordable housing should be simplified to reduce the number of generalized or indeterminate reasons that could be used to defeat a proposal to build affordable housing.”<sup>2</sup>

“Towns in which 10% of the housing units qualify as affordable housing are exempted from the burden – shifting rule. The act would have fared far better if it had not exempted anyone from the statute under any circumstances. In order for a municipal commission to reject a housing application under this act it must be for the reasons of either “substantial interest” in “health and safety” to the community. By the legislature not defining these terms as undefined it then became the courts’ responsibility as to what is “substantial interest” in “health and safety.”<sup>3</sup>

The Appeals Act “weakened the position of land use commissions and made it possible for the town to lose when a case did come to trial, as opposed to the former near-certainty that it would win an appeal from its decision.”<sup>4</sup>

“The primary objection to the Appeals Act is that it gives the applicant an opportunity to force municipalities to accept land use proposals that violate good planning principles because the applicant can win an appeal regardless of the merit of its proposal. Put more trenchantly, an applicant can “blackmail” a town into accepting its development proposal, even if it is not one for affordable housing, by threatening to withdraw the objectionable application and resubmit an affordable housing application.”<sup>5</sup>

“The relationship between the need for affordable housing and the protection of substantial public interests is the key to section 830g and to providing for affordable housing in general.”<sup>6</sup> “When adopted 10 years ago, the primary thrust of the Appeals Act was to reduce housing costs at the lower end of the income scale.”<sup>7</sup>

“Some of the members of the first Blue Ribbon Commission had hoped that section 8-30g would provide a framework within which developers and commissions could find a way to work out their differences over affordable housing applications without resorting to the expense and delay of litigation.”<sup>8</sup> Attorney Tondro further writes “We were naive.”<sup>9</sup>

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<sup>2</sup> Page 116 paragraph 3

<sup>3</sup> Page 121 paragraph 2

<sup>4</sup> Page 124 paragraph 1

<sup>5</sup> Page 128 paragraph 1

<sup>6</sup> Page 147 paragraph 1

<sup>7</sup> Page 161 paragraph 1

<sup>8</sup> Page 163 paragraph 1

<sup>9</sup> Page 163 paragraph 2

In my experience having served on a land use board in Milford, I have witnessed how a community and its commissions are placed in a disadvantaged position of being “blackmailed” in a sense by developers to accept proposals that are not in the best interest of the community. Every town all across this state has lost its sovereignty to some degree because of 8-30g. Since its inception, I would like to know how much money this law has costs the 169 municipalities collectively to fight the lawsuits brought upon by developers. These legal costs in have been passed onto the taxpayers that have been shouldering the burden.

In my opinion, it may be realistic to think that the rents of the units that are not classified as affordable would be increased to make up the profitability, hence increasing the costs for another segment of the population. For example; if a developer builds 100 units and a percentage of the units are designated for affordable housing, therefore, the other residents might be paying a higher costs for rent to offset the average the per unit profit needed to meet the developers return on their investment.

#### Possible Solutions:

1. Immediately suspend the law through legislative action.
2. Identity the original legislators that either voted yes or no from 8- 30g for their input.
3. Identify through successful practices what other states have implemented.
4. Identify what state regulations are driving up costs for housing.
5. Change the phrase Affordable Housing to another name that does not have a negative association.
6. Identify ways to increase home ownership so that people have a vested interest.

In conclusion, I think we can all agree that we have family and friends that we do not want to see leave the state due to the high costs of housing. We know that the original intent of 8-30g may have been to control housing costs, however, over 20 years later the facts do not support the results that it was successful. There are numerous unintended consequences as a result of 8-30g. Leaders take charge of change and change is needed.

#### Works Cited

Tondro, Terry J. “Western New England Law Review entitled Connecticut’s Affordable Housing Appeals Statue: After Ten Years of Hope, Why Only Middling Results? (Dated January 1<sup>st</sup>, 2001 (Volume 2323 (2001 – 2002) Issue 1 Symposium.) Online: 3, February, 2015  
< [1.digitalcommons.law.wne.edu](http://1.digitalcommons.law.wne.edu) > ... > Vol. 23 (2001-2002) > Iss. 1 (2001) Article 4>